

8-09-93

1 ORDINANCE AUTHORIZING AND PROVIDING FOR THE
2 ISSUANCE BY THE CITY OF FORT WAYNE, INDIANA OF
3 ITS FIRST MORTGAGE REFUNDING BONDS (WAYNE
4 COLISEUM LIMITED PARTNERSHIP PROJECT) SERIES
5 1993 IN THE PRINCIPAL AMOUNT OF \$3,100,000 FOR
6 THE PURPOSE OF REFUNDING PRIOR OBLIGATIONS OF
7 THE CITY ISSUED FOR THE BENEFIT OF WAYNE
8 COLISEUM LIMITED PARTNERSHIP; AUTHORIZING THE
9 EXECUTION, DELIVERY AND PERFORMANCE OF A LOAN
10 AGREEMENT AND RELATED DOCUMENTS WITH RESPECT
11 TO SAID BONDS; AND AUTHORIZING AND PRESCRIBING
12 OTHER MATTERS PERTAINING TO THE ISSUANCE OF
13 SAID BONDS.

14 WHEREAS, the City of Fort Wayne, Indiana (the "Issuer"),
15 is authorized and empowered by Indiana Code 36-7-12, as
16 supplemented and amended (the "Act"), to finance any land,
17 building or other improvement suitable for industrial,
18 commercial or manufacturing enterprises for the purposes set
19 forth in the Act; and

20 WHEREAS, under the Act, the Issuer is empowered to refund
21 revenue bonds so issued from time to time by the issuance of
22 additional revenue bonds of the Issuer; and

23 WHEREAS, Wayne Coliseum Limited Partnership (the
24 "Developer"), has acquired, renovated, constructed and
25 equipped certain manufacturing facilities (the "Project"),
26 located in Fort Wayne, Indiana, and the Issuer, in order to
27 finance a portion of the costs of the Project pursuant to the
28 provisions of the Act, heretofore has issued and sold its
29 Floating Rate Weekly Demand Industrial Development Revenue
30 Bonds (Wayne Coliseum Project), Series 1985, in the original
31 principal amount of \$6,200,000 (the "Prior Bonds") which are
32 now outstanding in the principal amount of \$3,100,000; and

33 WHEREAS, the Developer now proposes to cause the Prior
34 Bonds to be redeemed and, in order to permit interest cost
35 savings anticipated by the Developer and in furtherance of the
36 purposes set forth in the Act, the Issuer wishes to refund the
37 Prior Bonds by the sale and issuance of its refunding revenue
38 bonds, and authorizing such actions as might be required to

implement such stated intention; and

1 WHEREAS, the Fort Wayne Economic Development Commission has
2 performed all action required by it of the Act preliminary to
3 the adoption of this Bond Ordinance and has approved and
4 forwarded to this Common Council forms of the documents
5 referred to in the following paragraph; and

6 WHEREAS, pursuant to and in accordance with the provisions
7 of the Act, the Issuer is now prepared to proceed with the
8 refunding of the Prior Bonds and to issue and sell its First
9 Mortgage Refunding Revenue Bonds (Wayne Coliseum Limited
10 Partnership Project) Series 1993 in the principal amount of
11 \$3,100,000 (the "Bonds") pursuant to the following:

12 (a) Loan Agreement dated as of January 1, 1993 (the
13 "Agreement") between the Issuer and the Developer; and

14 (b) Trust Indenture dated as of January 1, 1993 (the
15 "Indenture") from the Issuer to the trustee named therein
16 (the "Trustee"); and

17 (c) Bond Purchase Agreement (the "Bond Purchase
18 Agreement") between the Issuer and J.C. Bradford & Co., as
19 underwriter (the "Underwriter"), and approved by the
20 Developer; and

21 (d) Offering Statement; and

22 WHEREAS, the Act and all documents to be signed by the
23 Issuer provide that the Bonds shall never constitute the debt
24 or indebtedness of the Issuer within the meaning of the
25 constitution or statutes of the State of Indiana, and shall
26 not constitute nor give rise to a pecuniary liability of the
27 Issuer or a charge against its general credit or taxing powers
28 and that the Bonds will be payable from and secured only by
29 the revenues arising from the pledge and assignment under the
30 Indenture of the note and the Issuer's rights under the Loan
31 Agreement.

1 NOW, THEREFORE, BE IT ORDAINED by the Common Council of the
2 City of Fort Wayne, Indiana, as follows:

3 Section 1. Pursuant to the Act, this Common Council
4 does hereby authorize the refunding of the Prior Bonds in
5 accordance with the terms of the Agreement and the Indenture
6 and does hereby determine it is in furtherance of the public
7 purposes set forth in the Act and that, therefore, providing
8 continued financing by refunding the Prior Bonds issued to
9 finance the Project through the issuance and sale of the Bonds
10 is in the public interest.

11 Section 2. To refund in whole the outstanding principal
12 amount of the Prior Bonds, the Issuer does hereby authorize
13 the issuance of its refunding revenue bonds under the Act, to
14 be designated First Mortgage Refunding Bonds (Wayne Coliseum
15 Limited Partnership) Series 1993, in the principal amount of
16 \$3,100,000. The Bonds mature at the time and in the amounts
17 set forth in the Indenture and shall have a stated maturity
18 date of January 1, 2023. Interest on the Bonds shall be
19 payable on the first day of January and July of each year,
20 commencing July 1, 1993. The Bonds shall bear interest at a
21 rate to be set forth in the final version of the Indenture but
22 in no event in excess of ten percent (10%) per annum. The
23 Bonds shall be dated, shall be substantially in the form and
24 in the denominations and shall have the terms and provisions
25 (including, without limitation, provisions relating to their
26 registration, authentication and redemption) provided for in
27 this Ordinance and in the Indenture.

29 The Bonds shall be marketed by the Underwriter at a price
30 of 100% of the aggregate principal amount thereof plus accrued
31 interest thereon from the date of the Bonds until the date of
32 the authentication and delivery of the Bonds.

Section 3. The Bonds are to be issued in accordance

with and pursuant to the Agreement and the Indenture. The
1 Agreement provides for the issuance of the Bonds pursuant to
2 the Indenture solely for the purpose of refunding the Prior
3 Bonds. The Bonds are to be secured solely and only by a
4 pledge and assignment to the Trustee of rights of the Issuer
5 under the Agreement (except certain rights to indemnification
6 and expenses of the Issuer). The Agreement further provides
7 for certain representations and warranties by the Issuer and
8 the Developer, for certain affirmative covenants, and for
9 remedies in connection with the failure to perform certain
10 covenants thereunder. The Indenture specifically provides
11 that no provision of the Bonds shall constitute the debt or
12 indebtedness of the Issuer within the meaning of any provision
13 or limitation of the constitution or statutes of the State of
14 Indiana, and shall not constitute nor give rise to a pecuniary
15 liability of the Issuer or a charge against its general credit
16 or taxing powers. Recourse on the Bonds executed and
17 delivered by the Issuer pursuant to the Agreement and the
18 Indenture may be had only against the security for the Bonds
19 as provided therein and in the Agreement and the Indenture.
20

Section 4. The Mayor of the Issuer is hereby authorized
22 empowered and directed to execute the Bonds by his or her
23 manual or facsimile signature and the City Clerk of the Issuer
24 is hereby authorized, empowered and directed to attest the
25 Bonds by his or her manual or facsimile signature, and the
26 official seal of the Issuer or the facsimile thereof shall be
27 affixed thereto or imprinted thereon, and the Mayor and the
28 City Clerk of the Issuer shall cause the Bonds, as so executed
29 and attested, to be delivered to the Trustee under the
30 Indenture. In case any official whose signature should appear
31 on any Bonds shall cease to be such official before the
32 delivery of such Bonds, such signature shall nevertheless be

1 valid and sufficient for all purposes, the same as if he or
2 she had remained in office until delivery.

3 Section 5. The Issuer has no obligation with respect to
4 the Project except as authorized hereby, and all costs, taxes
5 governmental charges and fees and charges with respect to the
6 Project shall be paid by the Developer.

7 Section 6. The Indenture is hereby approved in
8 substantially the form submitted to this meeting, and the
9 Mayor and the City Clerk of the Issuer are hereby authorized
10 and directed to execute, acknowledge and deliver the Indenture
11 with such changes therein as shall be approved by such persons
12 executing any such documents, and without the need for the
13 further approval of this Council, their execution to
14 constitute conclusive evidence of such approval, and the City
15 Clerk is hereby authorized and directed to affix to the
16 Indenture the corporate seal of the Issuer.

17 Section 7. The appointment of Fort Wayne National Bank,
18 as Trustee and Paying Agent pursuant to the Indenture is
19 hereby approved.

20 Section 8. The Loan Agreement is hereby approved in
21 substantially the form submitted to this meeting, and the
22 Mayor and the City Clerk of the Issuer are hereby authorized
23 and directed to execute, acknowledge and deliver the Agreement
24 with such changes therein as shall be approved by such persons
25 executing any such document and without the need for the
26 further approval of this Council, their execution to
27 constitute conclusive evidence of such approval, and the City
28 Clerk is hereby authorized and directed to affix to the
29 Agreement the corporate seal of the Issuer.

30 Section 9. The Bond Purchase Agreement is hereby
31 approved in substantially the form submitted to this meeting,
32 and the Mayor and the City Clerk of the Issuer are hereby

1 authorized and directed to execute and deliver the Bond
2 Purchase Agreement with such changes therein as shall be
3 approved by such Mayor, and without the need for the further
4 approval of this Council such execution to constitute
5 conclusive evidence of such approval.

6 Section 10. The use of the Offering Statement, including
7 approximately the language describing the Issuer, and of other
8 disclosure documents to be used in connection with the
9 marketing of the Bonds is hereby ratified and approved in
10 substantially the form of the Offering Statement submitted to
11 this meeting with such changes therein as shall be approved
12 by the Mayor or the City Clerk of the Issuer and without the
13 need for the further approval of this Council. The Mayor or
14 the City Clerk of the Issuer are hereby authorized to take
15 such other actions as may be necessary to register the Bonds
16 for sale in any State.

17 Section 11. The authorized officials of the Issuer are
18 hereby empowered and directed to execute and deliver all other
19 documents and instruments which may be required in connection
20 with the issuance and delivery of the Bonds. For purposes of
21 this section "authorized officials of the Issuer" shall mean
22 the Mayor or the City Clerk of the Issuer.
23

24 Section 12. If any provision of this Ordinance shall be
25 held or deemed to be or shall, in fact, be illegal,
26 inoperative or unenforceable, the same shall not affect any
27 other provision herein contained or render the same invalid,
28 inoperative or unenforceable to any extent whatever; provided
29 that no holding of invalidity shall require the Issuer to make
30 any payments from revenues other than those derived from the
31 Agreement and the Note in the Indenture.
32

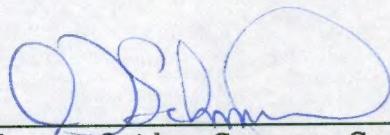
 Section 13. No recourse shall be had for the payment of
 the principal of and interest on the Bonds or for any claim

based thereon or upon any obligation, covenant or agreement contained in the Agreement, the Bond Purchase Agreement or the Indenture against any past, present or future member, officer or employee of the Issuer, or any incorporator, member, officer, employee, director or trustee of any successor entity, as such, either directly or through the Issuer or any successor entity, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise.

Section 14. All resolutions and regulations or parts thereof heretofore adopted or passed which are in conflict with any of the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 15. This Ordinance shall be in full force and effect from and after its passage and approval.

Passed and adopted this _____ day of _____,
1993.



Member of the Common Council

APPROVED AS TO FORM AND LEGALITY



J. Timothy McCaulay, City Attorney
Dated this 11th day of January, 1993.

Read the first time in full and on motion by Delmuth, seconded by _____, and duly adopted, read the second time by title and referred to the Committee on Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Common Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19_____, at _____ o'clock M., E.S.T.

DATED: 1-12-93

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Delmuth, seconded by Lost, and duly adopted, placed on its passage. PASSED Lost by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	<u>8</u>			<u>1</u>
<u>BRADBURY</u>	<u>✓</u>			
<u>EDMONDS</u>	<u>✓</u>			
<u>GiaQUINTA</u>	<u>✓</u>			
<u>HENRY</u>				<u>✓</u>
<u>LONG</u>	<u>✓</u>			
<u>LUNSEY</u>	<u>✓</u>			
<u>RAVINE</u>	<u>✓</u>			
<u>SCHMIDT</u>	<u>✓</u>			
<u>TALARICO</u>	<u>✓</u>			

DATED: 1-26-93.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)
(SPECIAL) (ZONING) ORDINANCE RESOLUTION NO. J-09-93
on the 26th day of January, 1993

ATTEST:
Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

(SEAL)
Mark P. GiaQuinta
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 27th day of January, 1993, at the hour of 11:30 o'clock A, M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 27th day of January, 1993, at the hour of 3:00 o'clock P, M., E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR



MEMORANDUM

TO: City Council Members

FROM: Karen A. Lee, Business Development Specialist *KAL*

DATE: January 8, 1993

RE: January 12, 1993 - City Council Agenda

An Industrial Revenue Bond was issued in 1984 to enable the Wayne Coliseum Limited Partnership acquisition and renovation of manufacturing buildings. (Commonly known as the Harvester Heavy Duty Truck Assembly Plant). Because of the favorable bond interest rates the Wayne Coliseum Limited Partnership seeks to refund the initial obligation. The attached ordinance approves the transaction and authorizes execution of the related documents. The obligation being approved is a limited obligation bond and does not affect the city's bonding capacity.

J 93-01-06

kal

Admn. Appr. _____

DIGEST SHEET

TITLE OF ORDINANCE Refunding Revenue Bonds

DEPARTMENT REQUESTING ORDINANCE Department of Economic Development

SYNOPSIS OF ORDINANCE Because of the favorable bond interest rates the Wayne Coliseum Limited Partnerships seeks to refund their initial obligation. The attached ordinance approves the transaction and authorizes execution of the related documents. The obligation being approved is a limited obligation bond and does not affect the city's bonding capacity.

EFFECT OF PASSAGE Will allow for the opportunity of lower interest rates.

EFFECT OF NON-PASSAGE Opposite of above.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS)

ASSIGNED TO COMMITTEE (PRESIDENT) Mark GiaQuinta

BILL NO. S-93-01-06

REPORT OF THE COMMITTEE ON
FINANCE

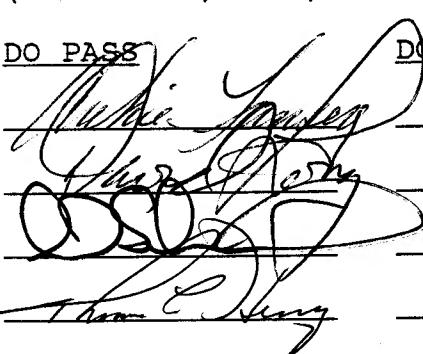
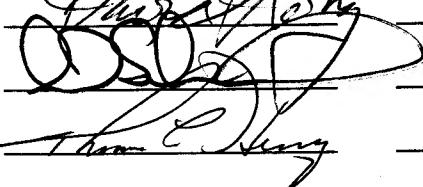
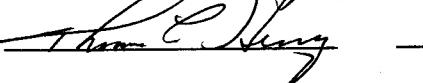
ARCHIE L. LUNSEY & DONALD J. SCHMIDT - CO-CHAIRPERSONS
HENRY, EDMONDS, LONG

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS

REFERRED AN (ORDINANCE) (REXOXXXXX) ISSUANCE OF ITS FIRST
MORTGAGE REFUNDING BONDS (WAYNE COLISEUM LIMITED PARTNERSHIP
PROJECT) SERIES 1993 IN THE AMOUNT OF \$3,100,000

HAVE HAD SAID (ORDINANCE) (RESOLUTION) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (RESOLUTION)

DO PASS DO NOT PASS ABSTAIN NO REC

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<img alt="Handwritten signatures of Archie Lunsey, Donald J. Schmidt, Henry, Edmonds, and Long over the一百-eighty-seventh row of lines."			